

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Anthony Stout, et al.,

Case No. 3:14-cv-02169

Plaintiffs

v.

ORDER

FedEx Ground Package Systems, Inc.

Defendant

Plaintiffs Anthony Stout, Rosa Stout, and Stout Allied Trucking, Inc., filed suit on September 30, 2014, alleging 20 causes of action against Defendant FedEx Ground Package System, Inc. (Doc. No. 1). Defendant filed a motion to dismiss Counts 1, 7, 8, 9, 11, 13, 14, 15, and 16. (Doc. No. 10). In their brief in opposition to Defendant's motion, Plaintiffs requested leave to amend their complaint to address the alleged deficiencies. (Doc. No. 18 at 25-26). Plaintiffs' request to amend came prior to the deadline set during the case management conference. (*See* Doc. No. 12). Therefore, the "liberal, pro-amendment ethos" of Rule 15 guides my exercise of discretion in determining whether to grant leave. 3 *Moore's Federal Practice*, § 15.14[1] (Matthew Bender 3d ed.). Plaintiffs, however, did not file a proposed amended complaint along with their request for leave, and I cannot evaluate whether Plaintiffs have addressed the deficiencies Defendant identified. Therefore, it hereby is ordered that:

- (1) Defendant's motion to dismiss is denied without prejudice;
- (2) Plaintiffs shall file their amended complaint on or before August 21, 2015;

- (3) Defendant may renew their motion to dismiss no later than September 4, 2015. Defendant may incorporate by reference its earlier arguments for dismissal as well as supplement its arguments in support of their motion to dismiss. Defendant shall expressly note where it relies on its earlier arguments;
- (4) Plaintiffs shall file their brief in opposition to Defendant's renewed motion, if any, on or before September 11, 2015;
- (5) Defendant shall file its brief in reply, if any, on or before September 18, 2015;
- (6) The fact and expert discovery deadlines are vacated. All discovery, including expert discovery and discovery requests currently pending, is stayed pending further order of this Court. Plaintiffs' motion for extension of deadlines, (Doc. No. 20), is denied as moot.

So Ordered.

s/ Jeffrey J. Helmick
United States District Judge